IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15972 of 2005

Between:

Muppala Sri Lakshmi, w/o Rambabu,
r/o Gollagudem, Adavinekkalam Village, Agiripalli Mandal, Krishna District.

..... PETITIONER

AND

1 The Collector, Krishna District, Machilipatnam.
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Agiripalli, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of MANDAMUS declaring the inaction of 2nd respondent in granting interim stay in the appeal preferred by the petitioners as illegal and arbitrary and violative of the petitioner's fundamental rights and further grant stay of all further proceedings arising out of 3rd respondent's proceedings bearing No.R.C.34/2005 dated 31-5-2005 issued to petitioner u/s.6 of the A.P. Land Encroachment Act 1905.

Counsel for the Petitioner: MR.VARDHINENI KRISHNAMOHAN

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

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ORAL ORDER:

This writ petition is filed seeking a writ of Mandamus to declare that the order of the 2nd respondent as illegal, arbitrary and violative of the fundamental rights and further to grant stay of all further proceedings

3rd respondent in RC. C.34 of 2005 dated 31.05.2005, under Section 6 of the A.P. Land Encroachment Act, 1905 (for short "the Act").

The case of the petitioner is that originally her

grand father purchased an extent of Ac.1.76 cents of land in Sy.No.125.4 and 14 situated at Adavinekkalam Gollagudem village under a registered sale deed, dated 06-05-1969 and since then they he had been in possession and enjoyment of the same during his life time and after his death her father, Muppala Chandramouleswara Rao, inherited the same and during his life time he transferred the same in her favour and after the death of her husband, she has been in possession and enjoyment of the same by cultivating it. It is further stated in the affidavit filed in support of the petition that the 3rd respondent issued notice of dispossession dated

09-02-2005 stating that she has been in unauthorized possession of the land in dispute and that the land is belonging to the Government to which she promptly submitted her explanation through a reply, dated

21-02-2005, which the 3rd respondent refused to accept, hence she sent the same by post. Even then, as the

3rd respondent threatened the petitioner to dispossess her from the land in

dispute, she filed W.P. No.3636 of 2005 before this Court and the same was disposed of directing that the petitioner shall not be dispossessed from the land in dispute without passing a final order under Section 6 of the Act. Pursuant to the same, she submitted her claim before the 3rd respondent on which the 3rd respondent passed orders on 31-05-2005 rejecting her claim and directing her to vacate the land in dispute. Aggrieved thereby, she preferred an appeal under Section 10 of the Act before the 2nd respondent on 25-06-2005 seeking stay of all further proceedings but the 2nd respondent though admitted the appeal declined to grant interim stay and pressurizing her to vacate the land. She states that she has been in continuous possession and enjoyment of the land in question for the last 36 years by way of registered sale deed, hence the action of the 3rd respondent in trying to dispossess her from the land is illegal and arbitrary. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and disposed of the writ petition at the admission stage.

A perusal of the material available on record appears that the 2nd respondent while admitting the appeal preferred by the petitioner declined to grant stay.

Having regard to the facts of the case, without going into the merits or otherwise, the writ petition is disposed of with a direction to the 2nd respondent to dispose of the appeal, dated 25-06-2005, preferred by the petitioner expeditiously and in any invent within a period of two (2) weeks from the date of receipt of a copy of this Order, uninfluenced by the observations, if any, made in this order, by affording a reasonable opportunity of being to the effected parties. Till such disposal, the 3rd respondent is directed not to dispossess the petitioner from the land in dispute.

With the above said observation, the writ petition is disposed of. In the circumstances there shall be no order as to costs.

22.07.2005

MRKR

To

1 The Collector, Krishna District, Machilipatnam.
2 The Revenue Divisional Officer, Nuzvid, Krishna District.
3 The Mandal Revenue Officer, Agiripalli, Krishna District.

4 Two C.Cs to the Government Pleader for Revenue, High Court Buildings, Hyderabad.

5 Two C.D.Copies.